

REMARKS

By this amendment new claim 8 has been added to the application. It is submitted that claim 8 patentably distinguishes over the heretofore-cited references and is allowable.

With respect to claims 1-7, the Examiner has previously stated that in his opinion the references cited do not teach away from their combination. However, in coming to this conclusion, it is respectfully submitted that the Examiner has ignored the first two elements of substantiating a rejection under 35 U.S.C. § 103(a), namely (1) “to provide some suggestion of the **desirability** of doing what the inventor has done,” and (2) demonstrating that “there must be a reasonable **expectation of success.**” MPEP § 706.02(j). Because of these deficiencies in the rejection, Applicant maintains the traversal of the Examiner’s earlier rejection.

Claims 1-7 were rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,188,982 to Chiang in view of U.S. Patent No. 5,778,342 to Erell, et al.

Claim 1 of the instant application recites in part:

generating means for generating said model that corresponds to such a state that said data do not exist, **on the basis of the noise that has been input at the time just preceding the inputting of said data,** and for updating that which is corresponding to it and is stored in said storing means. (Emphasis added.)

The Examiner has admitted that, “Chiang does not disclose extracting noise from input just preceding the input of speech data.” The Examiner then suggests that, because Erell does allegedly contain such a teaching, it would have been obvious to one of skill in the art to combine the teachings of Chiang and Erell. It is respectfully submitted that such a combination would not have been obvious to one of skill in the art.

Chiang expressly teaches away from the suggested combination. Col. 4, lns. 2-5. of Chiang state that “[t]he **advantages** of this on-line PMC method over the conventional PMC

method lies mainly in its **avoidance of the need to collect the background noise in advance.**”

Thus in this single sentence, Chiang teaches that it would be **undesirable** to have to collect background noise **in advance** of other pattern recognizing steps, as recited in the claims of the instant application.

Chiang further states:

[a]s is evident in actual applications, noise changes with time so that the conventional PMC method cannot be used to process speech in a nonstationary environment. This is true since there can be a significant difference between the background noise previously collected and the background noise in the actual environment. For this reason, the **conventional PMC is inadequate** for processing noises in a nonstationary state.

(Chiang, Col. 3, lns. 53-60) (emphasis added). Accordingly, Chiang teaches that conventional PMC, which requires collecting background noise in advance, to recognize data patterns is inferior and should not be used and that the teachings of Chiang provide superior means for achieving noise processing, or that **there would not be a reasonable expectation of success.**

Because of this stated inferiority, one of skill in the art reading Chiang would not, contrary to the Examiner’s assertion look to combine the teachings of Chiang with a system of noise sampling, prior to transmission.

Accordingly, because the two “basic criteria” of obviousness have not been, and cannot be established, the Examiner has failed to present a *prima facie* case of obviousness. Further, it is respectfully submitted that because Chiang specifically teaches away from the combination applied by the Examiner, such a combination cannot be the basis of a rejection under 35 U.S.C § 103(a).

Accordingly, it is submitted that the heretofore rejections of claims 1-7 are in error.

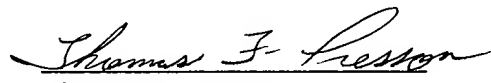
In the event that the Examiner disagrees with any of the foregoing comments concerning the disclosures in the cited prior art, it is requested that the Examiner indicate where in the reference or references, there is the bases for a contrary view.

CONCLUSION

In view of the foregoing remarks, it is believed that all of the claims in this application are patentable over the prior art, and early and favorable consideration thereof is solicited.

Please charge any fees incurred by reason of this response and not paid herewith to Deposit Account No. 50-0320.

Respectfully submitted,
FROMMER LAWRENCE & HAUG LLP

By: 
Thomas F. Presson
Reg. No. 41,442
(212) 588-0800